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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAFAYETTE-OPELOUSAS DIVISION

KEITH WOODFORK

CIVIL ACTION NO. 04-1061

VS.

BEST SUITES LAFAYETTE, LLC
MT. HAWLEY INS. CO.

MAGISTRATE JUDGE METHVIN
BY CONSENT OF THE PARTIES

MEMORANDUM RULING ON MOTION FOR SUMMARY JUDGMENT
(Rec. Doc. 50)

Before the court is defendants' motion for summary judgment on the issue of liability. The motion is opposed by plaintiff.¹ Because there are genuine issues of material fact on this issue, the motion is **DENIED**.

Factual Background

This lawsuit arises from a slip and fall in a hotel bathtub. Plaintiff alleges as follows: On February 8, 2003, he was staying in a room at Best Suites in Lafayette, Louisiana; while showering in the bathtub, he slipped and fell, striking the ground and causing serious injuries; the accident was caused by the failure of Best Suites Lafayette, LLC to provide a shower mat or other slip-resistant surface; and that plaintiff's expert in premises safety has tested the bathtub in question for its slip resistance and will testify that the bathtub "lacked a sufficient level of slip resistance to comply with applicable safety standards."² Defendants aver that the bathtub in

¹ Rec. Doc. 52.

² Plaintiff's brief, Rec. Doc. 52-2, p. 1.

room 233 “has skid-resistant circles on the floor of the tub, which can be both felt and seen upon inspection.”³

Motion for Summary Judgment

The Federal Rules of Civil Procedure provide for summary judgment where no genuine issue as to any material fact exists. Fed.R.Civ.P. 56(c). The threshold inquiry is whether there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250, 106 S.Ct. 2505, 2511, 91 L.Ed.2d 202 (1986). Of course, the substantive law will identify which facts are material. Id. All of the evidence must be reviewed in the light most favorable to the motion’s opponent. Id. However, the Fifth Circuit has emphasized that summary judgment should be granted and will be affirmed when the nonmoving party fails to meet its burden to come forward with facts and law demonstrating a basis for recovery that would support a jury verdict. Little v. Liquid Air Corp., 37 F.3d 1069, 1071 (5th Cir. 1994).

Summary judgment is inappropriate in the instant case because of the following genuine issues of material fact: 1) whether or not the bathtub at issue had the appropriate anti-slip surface; and 2) whether or not the anti-slip surface was properly maintained. These are central facts in this case and their resolution requires credibility determinations and the weighing of expert testimony at trial.

Considering the foregoing,

³ Defendant’s brief, Rec. Doc. 50-3, p. 4.

IT IS HEREBY ORDERED that the defendants' motion for summary judgment is hereby **DENIED**.

Signed at Lafayette, Louisiana on January 24th, 2006.

A handwritten signature in black ink, appearing to read 'M. Methvin', is written over a horizontal line.

Mildred E. Methvin
United States Magistrate Judge
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